

heirs of the deceased debtor; not even so far as to prevent the operation of the statute of limitations.^(o) Therefore these judgments which have been obtained against the executor, cannot relieve these creditors from the necessity of producing the usual proofs of their claims. Their original causes of action, as they stood before these judgments were rendered, must be proved as against these heirs precisely as if no such judgments had ever been obtained.

And generally in other respects all claims must appear upon the face of them, *prima facie*, to be just and fair; and to have obtained or had assured to them, at the instance of the creditor, payment from no other person or fund. Unless a claim is thus authenticated, and upon the face of it clear, it will not be allowed, even although no objection should be made to it by any one interested. And consequently it has always been considered to be the duty of the auditor to notice, in his report, all objections of this description. The auditor has no right certainly to moot cases to the court; or to make any objections, such as the statute of limitations, or the like, which can only come with propriety from a party interested, and which, therefore, if made by the auditor alone, will be disregarded.

But, notwithstanding a claim may have been formally vouched and reported as clear of all apparent objections, yet any party interested, a defendant or a co-creditor, may deny its existence and oppose its allowance altogether, in which case it must be regularly and legally established, as upon an issue joined in a court of law.

It has been found in practice, that there are several important advantages in sending the case at once to the auditor, and having an account stated. The claimants are immediately apprised of what is wanted, if any thing, to sustain their claims: those against which there is no objection may obtain satisfaction, or at least a dividend without further delay. The heirs and each creditor are informed of the nature of the distribution proposed to be made. Each claim is presented in a clear and distinct point of view. The debatable ground is designated, its extent reduced, and the progress of the cause accelerated.

The objection, that these claims No. 3, 4, and 5, are each of them founded on such a judgment against the executor as carries in itself conclusive evidence of a sufficiency of personal assets to

^(o) *Harwood v. Rawlings*, 4 H. & J. 126; *Duvall v. Green*, 4 H. & J. 270; *Mason v. Peter*, 1 Mun. 437.